



Phone (858) 587-3600  
Fax (858) 453-6034  
6465 Marindustry Place  
San Diego, CA 92121  
hazardconstruction.com  
License No. 750542A/B

December 8, 2017

Department of Transportation  
Division of Engineering Services  
Office Engineer, MS 43  
1727 30<sup>th</sup> Street  
Sacramento, CA 95816  
Attn: Jill Y. Sewell

Re: Bid Protest of Apparent Low Bidder  
Caltrans Contract 11-415304

Dear Ms. Sewell:

Hazard Construction ("Hazard") has reviewed the bid forms as submitted by the apparent low bidder, Western Rim Constructors, Inc. ("Western") and asks that Caltrans find Western non-responsive due to reducing the scope of work of a listed subcontractor from bid time listing to the DBE Commitment form submitted 5 days after the bid.

At bid time, Western properly submitted a Subcontractor List Form listing Maneri Traffic Control for bid items 4, 5, 7, 12, 13, 95, 96, 97, 98, 99, 100, 101. Within the time allotted by specifications, Western submitted their Disadvantaged Business Enterprise (DBE) Commitment Form listing Maneri Traffic Control for bid items 4, 5, 7, 12, 13, 95, 96, 97, 98, 99. Missing from the DBE Commitment Form are bid items 100 and 101. The DBE Commitment Form clearly states that "The names of the 1<sup>st</sup> tier DBE subcontractors and items of work must be consistent with the Subcontractor List (pub Cont Code 4100 et seq)." Western's failure to list bid item 100 and 101 is a clear reduction in scope of work of Maneri Traffic Control, a listed 1<sup>st</sup> Tier Subcontractor and is a violation of the Caltrans bidding instructions as well as the Public Contract Code. It is impossible for Caltrans to determine what work was being subcontracted based on this inconsistency.

Due to the reason stated above Hazard hereby protests any award to Western and asks that Western's bid be deemed as nonresponsive and award the contract to Hazard, the true apparent low bidder, having met all of the requirements of the contract since it is impossible to determine what work is being subcontracted and due to the competitive advantage Western was afforded by being able to reduce the scope of work for the listed subcontractors after the bid.

Caltrans has previously set precedence on this very issue on many other contracts including Contract 11-275504 where Coffman Specialties was found non-responsive due to enlarging the scope of work of a subcontractor 24 hours after the bid, Contract 11-406704 where Security Paving Company was found non-responsive due to reducing the scope of work of a subcontractor 24 hours after bid, (Exhibit 4), and Contract 11-408904 where Peterson-Chase General Engineering was found non-responsive due to inconsistencies between the Subcontractor List and the Disadvantaged Business Enterprise (DBE) Commitment Form.

If you have any questions regarding any of these matters or need further clarification, please do not hesitate to call myself at the main office. Thank you for your attention to this matter.

Sincerely,  
HAZARD CONSTRUCTION COMPANY

Jason A. Mordherst  
President

## STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 11-415304 Project ID: 1113000018

Bidder Name: Western Rim Constructors, Inc.

Bidder ID: VC0000101494

DES-OE-0102.2C (REV 03/2015)

Bidding Firm: Western Rim Constructors, Inc.

List this sub? Yes

## 7) Business Name MANERI TRAFFIC CONTROL, INC.

Location City TEMECULA State CA

California Contractor License Number 1017741

Public Works Contractor Registration Number 1000043135

Portion of Work Subcontracted:

Item #	Description
4 100	CONSTRUCTION AREA SIGNS
7 100	TRAFFIC PLASTIC DRUM
12 100	TEMPORARY CRASH CUSHION MODULE
13 100	ALTERNATIVE TEMPORARY CRASH CUSHION MODULE

List this sub? Yes

## 8) Business Name MANERI TRAFFIC CONTROL, INC.

Location City TEMECULA State CA

California Contractor License Number 1017741

Public Works Contractor Registration Number 1000043135

Portion of Work Subcontracted:

Item #	Description
95 100	REMOVE ROADSIDE SIGN
96 65	FURNISH SINGLE SHEEL ALUMINUM SIGN FOR RETROREFLECTIVE SHEETING
97 90	FURNISH SINGLE SHEET ALUMINUM SIGN FOR RETROREFLECTIVE SHEETING
98 77	FURNISH SINGLE SHEET ALUMIUM SIGN FOR RETROREFLECTIVE SHEETING
99 85	RETROREFLECTIVE SHETING TYPE XI

List this sub? Yes

## 9) Business Name MANERI TRAFFIC CONTROL

Location City TEMECULA State CA

California Contractor License Number 1017741

Public Works Contractor Registration Number 1000043135

Portion of Work Subcontracted:

Item #	Description
* 100 100	ROADSIDE SIGN ONE POST
* 101 100	INSTALL SIGN
5 100	TRAFFIC CONTROL LANE CLOSURERS W/ATTE TRUCK, DETOURS, RAMP CLOSURE

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION  
**DBE - COMMITMENT**  
 DBE-05-0102.100 (REV 12/2014)

CONTRACT NO: 11-415304

BID AMOUNT: \$ 6,926,220.64

BID OPENING DATE: 11-7-17

BIDDER'S NAME: WESTERN RIM CONSTRUCTORS, INC.

DBE GOAL FROM CONTRACT: 11%

DBE PRIME CONTRACTOR CERTIFICATION<sup>1</sup>: NA

TOTAL NUMBER OF ALL SUBCONTRACTS (DBE & NON-DBE): 7

TOTAL VALUE OF ALL SUBCONTRACTS (DBE & NON-DBE): 4,444,932.81

BID ITEM NO.	ITEM OF WORK AND DESCRIPTION OF SERVICES TO BE SUBCONTRACTED OR MATERIALS TO BE PROVIDED <sup>2</sup>	WORK CATEGORY CODES <sup>3</sup>	NAME OF DBE (Must be certified on the date bids are opened, include Caltrans' certification no., DBE address, and phone number. Show 2nd and 3rd tier for subcontractors)	AMOUNT (\$)
4, 5, 7, 12, 13, 95, 96, 97, 98, 99	CONSTRUCTION AREA SIGNS	C 12 10	MANERI TRAFFIC CONTROL INC.	402,756
	TRAFFIC CONTROL - LANE CLOSURES, DETOURS RAMP CLOSURES W/ ATTENUATION TRUCK, PLASTIC DRUMS TEMP CRASH CUSHIONS, ALTERNATIVE TEMP CRASH CUSHIONS, REMOVE ROADSIDE SIGN, FURNISH ALUMINUM SIGNS	C 12 00 C 12 01	47423 RAINBOW CANYON ROAD TEMECULA CA. 92592 DBE CERT # 38078 951-695-5104	

Show all DBE firms being claimed for credit, regardless of tier. Attach written confirmation from each DBE shown stating that it will be participating in the contract to perform the specific work shown for the specific amount agreed to.

The names of the 1st tier DBE subcontractors and items of work must be consistent with the Subcontractor List (Pub Cont Code § 4100 et seq.).

<sup>1</sup>Each DBE prime contractor must enter its certification number and show all work to be performed by DBEs, including work performed by its own forces.

<sup>2</sup>If 100% of an item is not to be performed or furnished by the DBE, describe the exact portion of the item to be performed or furnished.

<sup>3</sup>Use Work Category Codes from the California Unified Certification Program database.

Total Claimed  
Participation

\$ 1,027,990.25

14.84%

The bidder acknowledges that it is committed to use the DBEs shown on this form to meet the contract goal (48 CFR 26.53).

Signature of Bidder

11-8-2017 760-484-4328

Date

(Area Code) Tel. No.

RAY C SAMUELSON

Person to Contact

(Please Type or Print)

**ADA Notice**

For individuals with sensory disabilities, this document is available in alternate formats. For information, call (818) 445-1233, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-99, Sacramento, CA 95814.